

In the UNITED STATES District Court
For the WESTERN District: New York *

LUIS URDANETA,

Plaintiff,

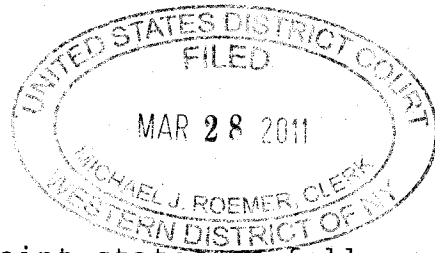
v.

DALE ARTUS, Superintendent,
Gowanda Correctional Facility ;
Mr. KELLEHER, ASAT Correctional
Counselor,

Defendant's/Respondent's: *

COMPLAINT

Civil Action No. 11 CV 00271



I. Complaint:

Plaintiff LUIS URDANETA, for his complaint states as follows:

That on the 30th day of August, 2010 while participating in the A.S.A.T. program, (BN-3) Plaintiff attempted to open some windows to allow some air in the stuffy Day Room of BN-3, Mr. Kelleher, an ASAT Counselor, became quit upset and hostile with Plaintiff; Mr. Kelleher started to 'scream' at Plaintiff and called him over to where he was standing 'next to the Chalk Board'; Mr. Kelleher continued to scream at Plaintiff and became louder, threatened Plaintiff, and eventually pushed Plaintiff up against the Chalk Board, subsequently sending Plaintiff out to the Unit Hallway for 45 minutes respectfully, than called Plaintiff to the Officer's Station where he had Plaintiff sign a 'Counsel and Reprimand Form.

II. Parties, Jurisdiction and Venue:

1) Plaintiff LUIS URDANETA, was confined in a State Correctional facility, at Gowanda Correctional Facility, located in the Town of Gowanda, South Rd., P.O. Box 311, County of Erie, in the State of New York, where, at the time of said assault and at the time of filing this complaint, is confined.

2) Plaintiff LUIS URDANETA, is, and was at all times mentioned herein, an adult citizen of the United States and a resident of Syracuse, New York prior to his incarceration.

3) Defendant DALE ARTUS was at all relevant times herein Superintendent of Gowanda Correctional Facility.

4) Defendant, Mr. KELLEHER, was at all relevant times herein an A.S.A.T Correctional Counselor.

5) First Defendant: Supertendent DALE ARTUS, is employed/assigned as Superintendent of Gowanda Correctional Facility under the exclusive authority of the Department of Correctional Services of the State of New York; Second Defendant: Mr. KELLEHER, is employed by the Department of Correctional Services and was at all relevent times assigned as an A.S.A.T Correctional Counselor at the Gowanda Correctional Facility.

6) This action arises under and is brought pursuant to 42 U.S.C. § 1983 to remedy deprivation under color of State Law, of rights guaranteed by the Eighth and Fourteenth Amendments, U.S.C.A. Const. mends, 6th and 14th, and New York Const. Art. I § 5.

7) Plaintiff's claims for injunctive relief are authorized by Rule 65 of the Federal Rules of Civil Procedure.

8) This cause of action arose in the Western District of New York State. Therefore, venue is proper under 28 U.S.C. § 1391(b).

9) Plaintiff has filed no other lawsuits dealing with the same facts involved in this action or otherwise related to his imprisonment.

10) Plaintiff filed a Grievance in respect to the claim(s) herein in a timely fashion (GWD-11113-10 [dated 8/31/10]), the Inmate Grievance Committee, filed said Grievance, under Code 49 to the Superintendent of Gowanda Correctional Facility; On September 9, 2010, Defendant: Superintendent Dale Artus after review and investigation , Affirmed Plaintiff/Grievant's complaint of assault and battery (Exhibit "C"), upon reveiw of the Superintendent's decision, Plaintiif was going to finalize

and exhaust his Administrative remedies, by filing an Appeal to C.O.R.C. for further review and action; However, Plaintiff was informed by Inmate Grievance Committee (IGRC) that it would not be necessary to do so as the Superintendent's decision was binding, thus, Plaintiff believes he has 'exhausted all possible Administrative remedies'.

11) At all relevant times herein Defendant's were 'persons' for purpose of 42 U.S.C. § 1983 and acted under color of law to deprive Plaintiff of his Federal rights as set forth below.

12) STATEMENT OF FACTS:

a) That on the 30th day of August, 2010, at approximately 12:50 PM respectfully, while participating in the A.S.A.T. Program., Plaintiff attempted to open a couple of windows in the Day Room of B-N Tower, 3rd Floor wher the A.S.A.T. program was and is held, upon attempting to do so, Correctional Counselor Mr. Kelleher started to screem at Plaintiff, Mr. Kelleher, C.C. (Defendant herein) called Plaintiff over to him next to the Chalk Board, continued screaming at Plaintiff that he was interrupting the class, Plaintiff attempted to explain that he was only opening a couple of windows, as some of the other Inmates were sick, Mr. Kelleher, eruptly interrupted Plaintiff and stated "I don't care" and pushed Plaintiff into the 'chalk board', causing Plaintiff to strick his head against the chalk board causing substancial pain and possible internal injury , Plaintiff has since had recurring headaches and visual problems and has required medical treatment from the Facility Medical Staff. Plaintiff was than sent to the hallway of BN-3, making

him wait approximately 45 minutes, than called him to the Officres Station to sign a 'Counsel and Notice Form'.

b) Plaintiff signed said form, attempting, once again, to explain that he was only opening a couple of windows to let some fresh air in, as some of the other inmates were sick and coughing, again, and in a harsh and excessively loud and angered vioce Mr. Kelleher informed Plaintiff that "I told you, I don't want to hear it".

c) Plaintiff filed a Grievance (GWD-11113-10) on the date of said incident with the Facility IGRC (Exhibit "A" [Translated version Exhibit "B"]).

d) The Facility IGRC, on August 31, 2010, forwarded said grievance to the Superintendent under Class Code 49 for his determination .

e) After review and investigation, Superintendent DALE ARTUS, filed his decision, dated September 9, 2010, affirming Plaintiff's claim, noting that 'appropriate Administrative actions have been taken in this matter (Exhibit "C").

f) On September 13, 2010, Plaintiff, seeking to Appeal the Superintendent's decision to the extent of seeking information as to what was involved in 'appropriate Administrative actions', the IGRC informed Plaintiff that an Appeal to CORC was not necessary as the Superintendent's decision was binding (supra).

g) Plaintiff being unlettered decided to seek assistance from an attorney but is unable to afford one, in stead sought assistance from the Facility Law library, and found it necessary to file the herein action pursuan to 42 U.S.C. § 1983 for an injuction and for compensatory damages and for fear of

REQUEST FOR JUDICIAL INTERVENTION

~~Western Dist.~~ COURT,

Erie COUNTY

INDEX NO. _____

DATE PURCHASED: _____

For Clerk Only

IAS entry date

Judge Assigned

RJI Date

PLAINTIFF(S):

LUIS URDANETA

DEFENDANT(S):

MR. KELLHER, Correctional Counselor;
DALE ARTUS, Superintendent Gowanda Correctional
Facility, et.al.,

Date issue joined: _____ Bill of particulars served (X/N): ☐ Yes ☒ No

NATURE OF JUDICIAL INTERVENTION (check ONE box only AND enter information)

- | | |
|---|--|
| <input type="checkbox"/> Request for preliminary conference | <input type="checkbox"/> Notice of petition (return date: _____)
Relief sought _____ |
| <input type="checkbox"/> Note of issue and/or certificate of readiness | <input type="checkbox"/> Notice of medical or dental malpractice action (specify: _____) |
| <input type="checkbox"/> Notice of motion (return date: _____)
Relief sought _____ | <input type="checkbox"/> Statement of net worth |
| <input type="checkbox"/> Order to show cause
(clerk enter return date: _____)
Relief sought _____ | <input type="checkbox"/> Writ of habeas corpus |
| <input type="checkbox"/> Other ex parte application (specify: _____) | <input type="checkbox"/> Other (specify: _____) |

NATURE OF ACTION OR PROCEEDING (Check ONE box only)

MATRIMONIAL

- ☐ Contested -CM
☐ Uncontested -UM

COMMERCIAL

- ☐ Contract -CONT
☐ Corporate -CORP
☐ Insurance (where insurer is a party, except arbitration) -INS
☐ UCC (including sales, negotiable instruments) -UCC
☐ *Other Commercial -OC

REAL PROPERTY

- ☐ Tax Certiorari -TAX
☐ Foreclosure -FOR
☐ Condemnation -COND
☐ Landlord/Tenant -LT
☐ *Other Real Property -ORP

OTHER MATTERS

- ☒ * 42 U.S.C. § 1983 -OTH

* If asterisk used, please specify.

TORTS

- Malpractice
☐ Medical/Podiatric -MM
☐ Dental -DM
☐ *Other Professional -OPM
☐ Motor Vehicle -MV
☐ *Products Liability -PL
☐ Environmental -EN
☐ Asbestos -ASB
☐ Breast Implant -BI
☐ *Other Negligence -OTN
☐ *Other Tort (including intentional) -OT

SPECIAL PROCEEDINGS

- ☐ Art. 75 (Arbitration) -ART75
☐ Art. 77 (Trusts) -ART77
☒ Art. 78 -ART78
☐ Election Law -ELEC
☐ Guardianship (MHL Art. 81) -GUARD81

Se

405.12 Filing an Article 78 Pro

☐ *Other Mental Hygiene -MHYG

☐ *Other Special Proceeding -OSP

Check "YES" or "NO" for each of the following questions:

Is this action/proceeding against a

YES NO
☐ ☒ Municipality: (Specify _____) YES NO
☐ Public Authority: (Specify _____)

YES NO
☐ ☒ Does this action/proceeding seek equitable relief?
☒ Does this action/proceeding seek recovery for personal injury?
☒ Does this action/proceeding seek recovery for property damage?

Time Frames:

This applies to all cases except contested matrimonial and tax certiorari cases)

Estimated time period for case to be ready for trial (from filing of RJ1 to filing of Note of Issue):

☒ Expedited: 0-8 months ☐ Standard: 9-12 months ☐ Complex: 13-15 months

Contested Matrimonial Cases Only: (Check and give date)

Has summons been served? ☐ No ☐ Yes, Date _____

Was a Notice of No Necessity filed? ☐ No ☐ Yes, Date _____

ATTORNEY(S) FOR PLAINTIFF(S):

<u>Self Rep.*</u>	<u>Name</u>	<u>Address</u>	<u>Phone #</u>
<input type="checkbox"/>	None yet assigned		
<input type="checkbox"/>			

ATTORNEY(S) FOR DEFENDANT(S):

<u>Self Rep.*</u>	<u>Name</u>	<u>Address</u>	<u>Phone #</u>
<input type="checkbox"/>	Hon. ANDREW CUOMO, Attorney General State of New York	Department of Law, The Capitol Albany, New York 12226	n/a
<input type="checkbox"/>			

Self Represented: parties representing themselves, without an attorney, should check the "Self Rep." box and enter their name, address, and phone # in the space provided above for attorneys.

SURANCE CARRIERS: None

RELATED CASES: (IF NONE, write "NONE" below)

<u>Case</u>	<u>Index #</u>	<u>Court</u>	<u>Nature of Relationship</u>
None			


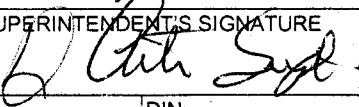
I AFFIRM UNDER PENALTY OF PERJURY THAT, TO MY KNOWLEDGE, OTHER THAN AS NOTED ABOVE, THERE ARE AND HAVE BEEN NO RELATED ACTIONS OR PROCEEDINGS, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION PREVIOUSLY BEEN FILED IN THIS ACTION OR PROCEEDING.

Signed:

(SIGNATURE)

LUIS Urdaneta, Claimant
 (PRINT OR TYPE NAME)

FORM 2133 (REV. 6/06)

 STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES INMATE GRIEVANCE PROGRAM SUPERINTENDENT	GRIEVANCE NO. GWD-11113-10	DATE FILED 8/31/10
	FACILITY GOWANDA CORRECTIONAL FACILITY	POLICY DESIGNATION Institutional
	TITLE OF GRIEVANCE Pushed by ASAT CC	CLASS CODE 49
	SUPERINTENDENT'S SIGNATURE 	DATE 9/9/10
Grievant Urdaneta, Luis	DIN 08B1549	Housing Unit BN3-O6B

The grievant alleges that ASAT CC Kelleher pushed him during an ASAT class. The grievant named 17 inmates and ASAT PA Sword as witnesses.

Inmate Urdaneta was interviewed by ASAT SCC Dzierba and Sgt. Militello. He restated his allegations as in the grievance. SCC Dzierba randomly chose six of the 17 inmate witnesses and interviewed them. They all basically affirmed the grievant's statement. Additional investigative techniques were used to ensure a complete and thorough investigation into this matter.

Based on this investigation, appropriate administrative actions have been taken in this matter.

APPEAL STATEMENT

If you wish to refer the above decision of the Superintendent please sign below and return this copy to your Inmate Grievance Clerk. You have seven (7) calendar days from receipt of this notice to file your appeal.* Please state why you are appealing this decision to C.O.R.C.

GRIEVANT'S SIGNATURE

DATE

GRIEVANCE CLERK'S SIGNATURE

DATE

* An exception to the time limit may be requested under Directive #4040, section 701.6(g).

☐ *Other Mental Hygiene -MHYG
☐ *Other Special Proceeding -OSP

Check "YES" or "NO" for each of the following questions:

Is this action/proceeding against a

YES NO
☐ ☒ Municipality: (Specify _____) YES NO
☐ Public Authority: (Specify _____)

YES NO
☐ ☒ Does this action/proceeding seek equitable relief?
☒ ☐ Does this action/proceeding seek recovery for personal injury?
☐ ☒ Does this action/proceeding seek recovery for property damage?

Re-Note Time Frames:

This applies to all cases except contested matrimonial and tax certiorari cases)

Estimated time period for case to be ready for trial (from filing of RJ1 to filing of Note of Issue):

☒ Expedited: 0-8 months ☐ Standard: 9-12 months ☐ Complex: 13-15 months

Contested Matrimonial Cases Only: (Check and give date)

Has summons been served? ☐ No ☐ Yes, Date _____

Was a Notice of No Necessity filed? ☐ No ☐ Yes, Date _____

TORNEY(S) FOR PLAINTIFF(S):

<u>Self Rep.*</u>	<u>Name</u>	<u>Address</u>	<u>Phone #</u>
<input type="checkbox"/>	None yet assigned		
<input type="checkbox"/>			

TORNEY(S) FOR DEFENDANT(S):

<u>Self Rep.*</u>	<u>Name</u>	<u>Address</u>	<u>Phone #</u>
<input type="checkbox"/>	Hon. ANDREW CUOMO, Attorney General State of New York	Department of Law, The Capitol Albany, New York 12226	n/a
<input type="checkbox"/>			

Self Represented: parties representing themselves, without an attorney, should check the "Self Rep." box and enter their name, address, and phone # in the space provided above for attorneys.

SURANCE CARRIERS: None

RELATED CASES: (IF NONE, write "NONE" below)

File None Index # Court Nature of Relationship

I AFFIRM UNDER PENALTY OF PERJURY THAT, TO MY KNOWLEDGE, OTHER THAN AS NOTED ABOVE, THERE ARE AND HAVE IN NO RELATED ACTIONS OR PROCEEDINGS, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION PREVIOUSLY BEEN FILED THIS ACTION OR PROCEEDING.

ed:

(SIGNATURE)

LUIS Urdaneta, Claimant
(PRINT OR TYPE NAME)

INMATE GRIEVANCE COMPLAINT

GWD-11113-10

PG. 2

Date 8/30/10

Name URDANEIA, LOIS

Dept.No. 08R1546

Housing Unit BN3-0613

Program _____ AM _____ PM

Description of Problem: (Please make as brief as possible) SCREAMED AT ME AND

THREATENED ME, AND PUSHED ME AGAINST THE BOARD.
AFTER THAT HE MADE ME GO OUT TO THE HALLWAY FOR
45 MINUTES, AND MADE ME SIGN A COUNSELING
REPRIMAND.

Grievant Signature SEE ATTACHED

Grievance Clerk L. Jansik; IGP SUPV.
SUPV.

Date: 8/31/10

Adviser Requested ☐ YES ☐ NO

Who:

Action requested by inmate: CONDUCT THAT HE HAS WITH ALL OF THE MEMBERS OF THIS PROGRAM. HE CAN'T WORK IN THIS KIND OF PROGRAM.

This Grievance has been informally resolved as follows:

This Informal Resolution is accepted:

(To be completed only if resolved prior to hearing)

**Grievant
Signature**

Date:

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

*An exception to the time limit may be requested under Directive #4040, section 701.6(a).

FORM 2131E (REV. 6/06)

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES

INMATE GRIEVANCE COMPLAINT

(TRANSLATED)

Grievance No.

GWD-11113-10

GOWANDA

CORRECTIONAL FACILITY

PG.1

Name URDANETA, LUISDept. No. 08B1549

Date

8/30/10

Housing Unit

BN3-06B

Program

AM

PM

(Please Print or Type - This form must be filed within 21 calendar days of Grievance Incident)*

Description of Problem: (Please make as brief as possible)

ON THE DAY OF 8/30/10, IN
THE ASAT PROGRAM, MR. KELLEHER WAS MAD AT ME
BECAUSE HE SAID THAT I WAS INTERRUPTING THE CLASS,
BECAUSE I WENT TO OPEN SOME WINDOWS, BECAUSE MOST
OF THE INMATES ARE SICK. MR. KELLEHER STARTED TO
SCREAM AT ME WHEN I WENT TO OPEN THE WINDOWS.
THEN HE CALLED ME TO THE FRONT OF THE BOARD, AND

Grievant

Signature

SEE ATTACHEDGrievance Clerk
SUPV.L. J. J. IGP SUPV.

Date:

8/31/10

Advisor Requested

☐ YES☐ NO

Who:

Action requested by inmate:

I FEEL THREATENED BECAUSE I'M
ALMOST FINISHED WITH THE PROGRAM. I'D LIKE TO SEE
IF THIS INCIDENT CAN BE INVESTIGATED, FOR MR. KELLEHER'S

This Grievance has been informally resolved as follows:

This Informal Resolution is accepted:

(To be completed only if resolved prior to hearing)

Grievant

Signature

Date:

Exhibit "B"

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

*An exception to the time limit may be requested under Directive #4040, section 701.6(g).

FORM 2131E (REV. 6/06)

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES

INMATE GRIEVANCE COMPLAINT

(ORIGINAL SPANISH VERSION)

Grievance No.

GWD-11113-10

GOWANDA

CORRECTIONAL FACILITY

Date 8/30/10

Name Luis Urdaneta

Dept. No. 08B1549

Housing Unit BN-3 06B

Program

AM

asat

PN

(Please Print or Type - This form must be filed within 21 calendar days of Grievance Incident)*

Description of Problem: (Please make as brief as possible) Durante del día de hoy en el programa de asat, el Mr. Kelleter se molestó diciendo que yo estaba haciendo y interrumpiendo el programa por pararme y abrir las ventanas ya que personas están enfermas y tocando el empuje a gritar yo me puse por que el me jeno y frente a la pizarra empuje a gritarme amenazarme y luego vino y me dio un empuje contra la pizarra, luego de eso me puse en el pasillo por 45 minutos y me dio a firmar una counseler reprimand.

Grievant

Signature Luis Urdaneta

Grievance Clerk

SUPV.

L. J. J. IGP SUPV.

Date:

8/31/10

Advisor Requested

☐

YES

☐

NO

Who:

Action requested by inmate: yo me siento amenazado ya que yo estoy por terminar y me gustaria que fuera investigado por la conducta que tiene con las miembros de este programa el no esta acto por atender programas de esta clase.

This Grievance has been informally resolved as follows:

This Informal Resolution is accepted:

(To be completed only if resolved prior to hearing)

Grievant

Signature

Date:

Exhibit "A"

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

reprisals from other Staff Members.

13) PRAYER FOR RELIEF

a) Plaintiff request an Order declaring that the Defendant(s) have acted in violation of the United States Constitution.

b) Plaintiff request for an injunction compelling Defendant(s) to provide better screening of their employees, assurance that incidents herein complained of do not re-accure to Plaintiff or other inmates.

c) Plaintiff further request One Hundred (\$150,000.00) fifty thousand dollars as compensatory damages.

Luis Urdaneta
Luis Urdaneta, Plaintiff

SWORN TO BEFORE ME THIS

8 DAY OF March, 2011

Jonathan W. Bero
NOTAR PUBLIC

NOTAR PUBLIC
STATE OF NEW YORK
JONATHAN W. BERO
14

☐ *Other Mental Hygiene -MHYG
☐ *Other Special Proceeding -OSP

Check "YES" or "NO" for each of the following questions:

Is this action/proceeding against a

ES NO
☐ ☒ Municipality: YES NO
(Specify _____) Public Authority:
(Specify _____)
ES NO
☒ Does this action/proceeding seek equitable relief?
☐ Does this action/proceeding seek recovery for personal injury?
☒ Does this action/proceeding seek recovery for property damage?

Re-Note Time Frames:

This applies to all cases except contested matrimonial and tax certiorari cases)

Estimated time period for case to be ready for trial (from filing of RJT to filing of Note of Issue):

☒ Expedited: 0-8 months ☐ Standard: 9-12 months ☐ Complex: 13-15 months

Contested Matrimonial Cases Only: (Check and give date)

Has summons been served? ☐ No ☐ Yes, Date _____
Was a Notice of No Necessity filed? ☐ No ☐ Yes, Date _____

TORNEY(S) FOR PLAINTIFF(S):

Self Rep.*	Name	Address	Phone #
<input type="checkbox"/>	None yet assigned		
<input type="checkbox"/>			

TORNEY(S) FOR DEFENDANT(S):

Self Rep.*	Name	Address	Phone #
<input type="checkbox"/>	Hon. ANDREW CUOMO, Attorney General State of New York	Department of Law, The Capitol Albany, New York 12226	n/a
<input type="checkbox"/>			

Self Represented: parties representing themselves, without an attorney, should check the "Self Rep." box and enter their name, address, and phone # in the space provided above for attorneys.

INSURANCE CARRIERS: None

RELATED CASES: (IF NONE, write "NONE" below)

File Index # Court Nature of Relationship

None

I AFFIRM UNDER PENALTY OF PERJURY THAT, TO MY KNOWLEDGE, OTHER THAN AS NOTED ABOVE, THERE ARE AND HAVE BEEN NO RELATED ACTIONS OR PROCEEDINGS, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION PREVIOUSLY BEEN FILED THIS ACTION OR PROCEEDING.

ed:

(SIGNATURE)

LUIS Urdaneta, Claimant
(PRINT OR TYPE NAME)

FORM 2131E (REV. 6/06)

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES

INMATE GRIEVANCE COMPLAINT

(TRANSLATED)

Grievance No.

GWD-11113-10

GOWANDA

CORRECTIONAL FACILITY

PG. 1

Name URDANETA, LUISDept. No. 08B1549

Date

8/30/10

Housing Unit

BN3-06B

Program

AM

PM

(Please Print or Type - This form must be filed within 21 calendar days of Grievance Incident)*

Description of Problem: (Please make as brief as possible)

ON THE DAY OF 8/30/10, IN
THE ASAT PROGRAM, MR. KELLEHER WAS MAD AT ME
BECAUSE HE SAID THAT I WAS INTERRUPTING THE CLASS,
BECAUSE I WENT TO OPEN SOME WINDOWS, BECAUSE MOST
OF THE INMATES ARE SICK. MR. KELLEHER STARTED TO
SCREAM AT ME WHEN I WENT TO OPEN THE WINDOWS.
THEN HE CALLED ME TO THE FRONT OF THE BOARD, AND

Grievant

Signature

SEE ATTACHEDGrievance Clerk
SUPV.L. J. J. IGP SUPV.

Date:

8/31/10

Advisor Requested

☐ YES☐ NO

Who:

Action requested by inmate:

I FEEL THREATENED BECAUSE I'M
ALMOST FINISHED WITH THE PROGRAM. I'D LIKE TO SEE
IF THIS INCIDENT CAN BE INVESTIGATED, FOR MR. KELLEHER'S

This Grievance has been informally resolved as follows:

This Informal Resolution is accepted:

(To be completed only if resolved prior to hearing)

Grievant

Signature

Date:

Exhibit "B"

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

*An exception to the time limit may be requested under Directive #4040, section 701.6(a).

FORM 2131E (REV. 6/06)

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES

INMATE GRIEVANCE COMPLAINT

(ORIGINAL SPANISH VERSION)

Grievance No.

GWD-11113-10

GOWANDA

CORRECTIONAL FACILITY

Date 8/30/10

Name LUIS Urdaneta

Dept. No. 08B1549

Housing Unit BN-3 06B

Program

AM

asat

PM

(Please Print or Type - This form must be filed within 21 calendar days of Grievance Incident)*

Description of Problem: (Please make as brief as possible) Durante del día de hoy en el programa e asat, el Mr. Kelleter se molestó diciendo que yo estaba haciendo y interrumpiendo el programa por pararme y abrir las ventanas ya que personas están enfermas y tocando el empuje a gritar yo me pare por que el me empuja y frente a la pizarra empezó a gritarme amenazarme y luego vino y me dio un empujón contra la pizarra, luego de eso me pare en el pasillo por 45 minutos y me dio a firmar una consola representand.

Grievant

Signature

LUIS Urdaneta

Grievance Clerk

SUPV.

J. J. J. IGP SUPV.

Date:

8/31/10

Advisor Requested

☐

YES

☐

NO

Who:

Action requested by inmate: yo me siento amenazado ya que yo estoy por terminar y me gustaria que fuera investigado por la conducta que tiene con los miembros de este programa el no esta actuando para atender programas de esta clase.

This Grievance has been informally resolved as follows:

This Informal Resolution is accepted:

(To be completed only if resolved prior to hearing)

Grievant


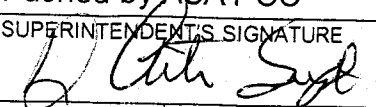
Signature

Date:

Exhibit "A"

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

FORM 2133 (REV. 6/06)

 STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES INMATE GRIEVANCE PROGRAM SUPERINTENDENT	GRIEVANCE NO. GWD-11113-10	DATE FILED 8/31/10
	FACILITY GOWANDA CORRECTIONAL FACILITY	POLICY DESIGNATION Institutional
	TITLE OF GRIEVANCE Pushed by ASAT CC	CLASS CODE 49
	SUPERINTENDENT'S SIGNATURE 	DATE 9/9/10
Grievant Urdaneta, Luis	DIN 08B1549	Housing Unit BN3-06B

The grievant alleges that ASAT CC Kelleher pushed him during an ASAT class. The grievant named 17 inmates and ASAT PA Sword as witnesses.

Inmate Urdaneta was interviewed by ASAT SCC Dzierba and Sgt. Militello. He restated his allegations as in the grievance. SCC Dzierba randomly chose six of the 17 inmate witnesses and interviewed them. They all basically affirmed the grievant's statement. Additional investigative techniques were used to ensure a complete and thorough investigation into this matter.

Based on this investigation, appropriate administrative actions have been taken in this matter.

APPEAL STATEMENT

If you wish to refer the above decision of the Superintendent please sign below and return this copy to your Inmate Grievance Clerk. You have seven (7) calendar days from receipt of this notice to file your appeal.* Please state why you are appealing this decision to C.O.R.C.

 GRIEVANT'S SIGNATURE

 DATE

 GRIEVANCE CLERK'S SIGNATURE

 DATE

* An exception to the time limit may be requested under Directive #4040, section 701.6(g).